

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION**

Chris F. Van Egmond,  
Appellant,

v.

Antelope County Board of Equalization,  
Appellee.

Case No: 16R 0036

**Amended**

Decision and Order Affirming Antelope  
County Board of Equalization  
**(Correct Date of Signature)**

Background

1. The Subject Property is a rural residential parcel improved with a 1,024 square foot single family dwelling, with a legal description of: Tr E ½ NE ¼ 35-28-5 cont. 9.84 ac, Antelope County, Nebraska.
2. The Antelope County Assessor (the County Assessor) assessed the Subject Property at \$79,910 for tax year 2016.
3. The Taxpayer protested this value to the Antelope County Board of Equalization (the County Board) and requested an assessed value of \$67,410 for tax year 2016.
4. The County Board determined that the taxable value of the Subject Property was \$79,910 for tax year 2016.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on July 6, 2017, at the Ramada Columbus & Rivers Edge Convention Center, 265 33<sup>rd</sup> Avenue, Columbus, Nebraska, before Commissioner Nancy J Salmon.
7. Chris F. Van Egmond was present at the hearing on behalf of himself.
8. Kelly Mueller, Antelope County Assessor, was present for the County Board.

Applicable Law

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
10. The Commission’s review of the determination of the County Board of Equalization is de novo.<sup>2</sup>

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<sup>1</sup> See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

<sup>2</sup> See, Neb. Rev. Stat. §77-5016(8) (2016 Cum. Supp.), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). “When an appeal is conducted as a ‘trial de novo,’ as opposed to a ‘trial de novo on the record,’ it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal.” *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

11. When considering an appeal a presumption exists that the “board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.”<sup>3</sup> That presumption “remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.”<sup>4</sup>
12. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.<sup>7</sup>
15. The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

#### Findings of Fact & Conclusions of Law

16. The first issue identified by the Taxpayer involves his contention that his land should not be valued any higher than 2015’s value because there have been no changes to the Subject Property. In addition, he asserts that his outbuildings had no value for 2011, but now have an assessment value. The Commission notes from the submitted information that outbuildings have been assessed since at least 2012.
17. The assessed value for real property may be different from year to year, dependent upon the circumstances. See, *Affiliated Foods Coop v. Madison Co. Bd of Equal.*, 229 Neb. 605, 613, 428 N.W.2d 201, 206 (1988). For this reason, a prior year’s assessment is not relevant to the subsequent year’s valuation.
18. The Taxpayer desires to have the Subject Property equalized with the values for property in Pierce County. Pierce County values the first acre of a farm homesite at \$10,000 while Antelope County values the first acre at \$15,000. The Taxpayer also disputed the valuations utilized by Antelope County for remaining acres of a farm site. The County

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<sup>3</sup> *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

<sup>4</sup> *Id.*

<sup>5</sup> Neb. Rev. Stat. §77-5016(9) (2016 Cum. Supp.).

<sup>6</sup> *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

<sup>7</sup> Cf. *Josten-Wilbert Vault Co. v. Board of Equalization for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965)

(determination of actual value); *Lincoln Tel. and Tel. Co. v. County Bd. Of Equalization of York County*, 209 Neb. 465, 308 N.W.2d 515 (1981)(determination of equalized taxable value).

<sup>8</sup> Neb. Rev. Stat. §77-5018(1) (2016 Cum. Supp.).

Assessor described the differences in market sales in the two counties. The Taxpayer did not provide the Commission with any comparable sales to substantiate his claims.

19. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
20. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2016, is Affirmed.
2. The taxable value of the Subject Property for tax year 2016 is:

Land	\$34,725
<u>Improvements</u>	<u>\$45,185</u>
Total	\$79,910

3. This Decision and Order, if no further action is taken, shall be certified to the Antelope County Treasurer and the Antelope County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2016 Cum. Supp.).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each Party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2016.
7. This Decision and Order is effective on July 24, 2017.

Signed and Sealed: July 24, 2017

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Nancy J. Salmon, Commissioner